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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,028	06/25/2007	Petur Gudjonsson	4395-13	6001
23117 7590 10/06/2011 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
BURGESS, RAMYA PRAKASAM				
ART UNIT		PAPER NUMBER		
3651				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/581,028

Applicant(s)

GUDJONSSON ET AL.

Examiner

RAMYA PRAKASAM

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1, 3-13 and 15-25 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1, 3-13, and 15-25 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/29/2011 has been entered.

Claim Rejections - 35 USC § 103

2. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thorvaldsson (US Patent No. 6,546,304) in view of Ramsay (US Patent Application Publication No. 2004/0177011).

Thorvaldsson discloses a method of operating a combined information handling and food processing system wherein items can be conveyed between processing means while a computer system traces its position and preserves information representing its origination while the food is processed (See Column 8, lines 30-59), said method comprising the steps of:

- Storing a data set of a first type representing origination of an item in memory of a computer system (See Column 5, lines 18-26);
- Conveying the item to process means for separation of the item into sub-items while the positions of the item and the sub-items are traced by the computer system (See Column 5, lines 18-26);

- Selecting sub-items for a batch (items are conveyed in batches based on type and origination - See Column 5, lines 18-26), and
- Assigning data from the data set of the first type representing the origination of the item to the batch (See Column 5, lines 43-54).
- Defining a data set of a second type which comprises data from the data set of the first type representing the origination of at least one item and an identifier identifying at least one batch for which at least one sub-item of the at least one item has been selected (batches are identified and stored - See Column 5, lines 43-53).
- Wherein a first type of batches is formed from sub-items of items of a single origination (meat from an animal of the same origination are transported in one batch - See Column 5, lines 23-26).
- Wherein sub-items of items of one origination are selected repeatedly for batches of the first type until a residual amount of sub-items from that origination is insufficient for filing one batch. (See Column 5, lines 43-54)
- Wherein a second type of batches is formed from sub-items of items of more than one origination. (See Column 5, lines 27-42).
- Wherein the residual amount of sub-items is selected for batches of the second type (See Column 5, lines 27-42).
- Wherein the data set of the second type further comprises information relating to the processing of an item or sub-item. (See Column 5, lines 27-42).

- Wherein the information relating to the processing of the item or sub-item comprises information identifying a processing resource or facility which has been in contact with the item or sub-item. (See Column 2, lines 25-28).
- Wherein the selecting of sub-items for a first type of batches is based on a selection criterion wherein sub-items are combined in a batch so that the weight of the batch is within a predetermined range. (See Column 6, lines 63-68 - Column 7, lines 1-9).
- Wherein the selecting of sub-items for the second type of batches is based on a selection criterion wherein the sub-items are combined in the batch so that the number of different origins of the sub-items is within a predetermined range. (number is 1 since batches contain only one origin).
- packaging a batch in a package and assigning data from the first or second set of data to the package to indicate origination of sub-items in that package (See Column 1, lines 11-20).
- Assigning data from the second set of data to the package to indicate processing resources or facilities which have been in contact with sub-items in that package. (See Column 2, lines 25-28).

A combined information handling and food processing system, comprising:

- A conveyor for conveying a food item to process means for separation of the item into sub-items (See Column 5, lines 18-26);
- A computer with memory, the computer being adapted to:

- Store a data set of a first type representing origination of an item in the memory (See Column 5, lines 18-26);
 - Select sub-item for a batch (items are conveyed in batches based on type and origination - See Column 5, lines 18-26),
 - Assign data from the data set of the first type representing the origination of the item to the batch. (See Column 5, lines 18-26)
- Adapted to define a data set of a second type which comprises data from the data set of the first type representing the origination of at least one item and an identifier identifying at least one batch for which at least one sub-item of the at least one item has been selected. (batches are identified and stored - See Column 5, lines 43-53).
- Adapted to form a first type of batches from sub-items of items of a single origination (meat from an animal of the same origination are transported in one batch - See Column 5, lines 23-26).
- Wherein sub-items of items of one origination are selected repeatedly for batches of the first type until a residual amount of sub-items from that origination is insufficient for filling one batch (See Column 5, lines 43-54).
- Adapted to form a second type of batches from sub-items of items of more than one origination (See Column 5, lines 27-42).
- Adapted to select the residual amount of sub-items for batches of the second type. (See Column 5, lines 27-42).

- Wherein the data set of the second type further comprises information relating to the processing of an item or sub-item (See Column 5, lines 27-42).
- Wherein the information relating to the processing of the item or sub-item comprises information identifying a processing resource or facility which has been in contact with the item or sub-item (See Column 2, lines 25-28).
- Wherein the selecting of sub-items for a first type of batches is based on a selection criterion wherein sub-items are combined in a batch so that the weight of the batch is within a predetermined range (See Column 6, lines 63-68 - Column 7, lines 1-9).
- Wherein the selecting of sub-items for the second type of batches is based on a selection criteria wherein the sub-items are combined in the batch so that the number of different origins of the sub-items is within a predetermined range (number is 1 since batches contain only one origin).
- Packing equipment for packaging a batch in a package and for assigning data from the first or second set of data to the package to indicate origination of sub-items in that package (See Column 1, lines 11-20).
- A set of electronic tags and means for transferring data between the computer and the tags, the system being adapted to receive information from one primary tag and transfer the data to a number of secondary tags, said number corresponding to the number of sub-items arising from the separation of the food item. (See Column 4, lines 21-24).

- A meat item separation device which is controlled by the computer to separate the food items into the number of sub-items. (slicer).

Thorvaldsson, however, fails to explicitly disclose assigning an identifier to a batch. Ramsay discloses the assignment of an identifier to a batch (See Paragraph 110) for the purpose of associating further shipments of meat to the batch it was grouped with. (See Paragraph 110). It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify Thorvaldsson by assigning an identifier to a batch for the purpose of associating further shipments of meat to the batch it was grouped with.

Response to Arguments

3. Applicant's arguments filed 8/29/2011 have been fully considered but they are not persuasive.
4. Applicant's argue that Thorvaldsson's disclosure does not trace and store information regarding the items which end up in batches, but rather collects information regarding the processing and handling of the meat items. However, the collection of information regarding the processing and handling of the meat items, that eventually end up in batches, IS tracing and storing information regarding the items which end up in batches. Thorvaldsson discloses tracing the origin of the meat by virtue of it's location on the hook.
5. Applicant argues that Thorvaldsson does not teach the assigning of batch information on each sub-item. As discussed above, Thorvaldsson does fail to explicitly disclose assigning an identifier to a batch. However it would have been obvious to a

person of ordinary skill in the art at the time of applicant's invention to modify Thorvaldsson with the teachings of Ramsay for the purpose of associating further shipments of meat to the batch it was grouped with.

6. With regards to applicant's argument that Ramsay fails to deal with following individual pieces of meat through a processing, batching and packing line, it is clear that a hamburger patty would be considered a piece of meat, and the system in Ramsay deals with processing, batching and packing.

7. For the foregoing reasons, the claims stand rejected.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMYA PRAKASAM whose telephone number is (571)272-6011. The examiner can normally be reached on Monday - Thursday, 9am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571)272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RAMYA PRAKASAM/
Primary Examiner, Art Unit 3651

9/30/2011
RGP